

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Henry DaCosta
Application No. : 10/723,778
For : **Systems and Methods for Adaptive Interpretation of Input from
a Touch-Sensitive Input Device**
Filed : November 26, 2003
Examiner : Regina Liang
Art Unit : 2629

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This is a Reply Brief filed under 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed August 16, 2007. The Reply Brief is in connection with the final rejection of claims 1-5, 7-13, 16-19, 21-23, and 26-32 in the Final Office Action mailed September 24, 2008.

In the present Reply Brief, Appellant addresses a portion of the issues raised in the Examiner's Answer. Appellant's failure to address an issue in this Reply Brief should not be taken as an indication that Appellant agrees with the Examiner. The Board should instead consider Appellant's arguments in the record as a whole.

Status of the Claims

Claims 1-5, 7-13, 16-19, 21-23, and 26-32 are pending and are the substance of this appeal. Claims 6, 20, 24, and 25 were cancelled during prosecution. Applicant inadvertently included claim 20 in the listing of claims on appeal in the Appeal Brief.

Argument

Issue 1: Whether the Examiner erred in rejecting claims 1-5, 7-13, 16-19, 21-23, and 26-32 under 35 U.S.C. § 112, ¶ 1.

Claims 1-5, 7-13, 16-19, 21-23, and 26-32 satisfy 35 U.S.C. § 112, ¶ 1 because the specification discloses a “change in pressure threshold” as recited in claims 1 and 19.

Section 112, ¶ 1 requires, in relevant part, that the specification “contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same.”

In the Examiner’s Answer, the Examiner has stated that the claim term “change in pressure threshold” refers to a threshold that is changing.¹ While the specification describes adaptive thresholds and thus contemplates that threshold values may change, the claim term in question relates to a threshold for a change in pressure, i.e. a ΔZ threshold, not a changing threshold value for pressure as asserted by the Examiner. As noted in Applicant’s appeal brief, a threshold against which a change in pressure is compared, i.e. a ΔZ threshold, is disclosed in the Figures and the specification. For example, the claimed “change in pressure is greater than a change in pressure threshold” is shown in Figure 2 where “ $\Delta Z > \text{threshold}$ ” is shown in step 222. Such a step is also shown in Figure 3, which includes step 322, which also shows “ $\Delta Z > \text{threshold}$.” While the term “change in pressure threshold” is not used in the Figure, it is plain that “ ΔZ ” (i.e. a change in pressure) is being compared against a threshold value for a change in pressure. Further, the corresponding description for Figure 3 states that “[i]f the change in pseudo pressure is greater than the threshold, the processor (106) determines whether the first interval has elapsed 324. If so, the processor (106) concludes that the user is pressing 326 and the processor (106) returns to step 302 in the process.” Thus, the specification plainly discloses that a press signal may be generated when, among other conditions, $\Delta Z > \Delta Z \text{ threshold}$, i.e. a change in pressure is greater than a change in pressure threshold. Therefore, each of claims 1-5, 7-13, 16-19, 21-23, and 26-32 are supported by sufficient written description and satisfy 35 U.S.C. § 112, ¶ 1.

¹ See Examiner’s Answer, p. 8.

Applicant respectfully requests that the Board reverse the Examiner's rejection of claims 1-5, 7-13, 16-19, 21-23, and 26-32.

Issue 2: Whether the Examiner erred in rejecting claims 1-3, 5, 7-13, 16, 17, 19, 21-23, 26, 27, and 29-32 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gillespie in view of Astala.

Claims 1-3, 5, 7-13, 16, 17, 19, 21-23, 26, 27, and 29-32 are patentable over Gillespie in view of Astala because Gillespie in view of Astala does not disclose “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.”

To reject a claim under 35 U.S.C. § 103(a) the scope and content of the references must be ascertained, the differences between the references and the claimed invention, and the level of ordinary skill in the pertinent art must be resolved. See *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966); *See also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007).

Each of claims 1 and 19 recite “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” The focus of the rejection under § 103(a) is the portion of claims 1 and 19 that recite “the change in pressure is greater than a change in pressure threshold.”

In her Answer, the Examiner maintains her assertion that Gillespie discloses “the change in pressure is greater than a change in pressure threshold” because Gillespie recites “the finger pressure increases past threshold ZpushDown, causing the virtual button to be pressed.” (emphasis in Examiner's Answer).² However, contrary to the Examiner's assertion, this portion of Gillespie simply describes comparing a pressure value against a pressure threshold in an iterative fashion over time: i.e. while the exerted pressure is below the ZpushDown threshold, a press is not detected; however, once the pressure is high enough (i.e. the pressure is greater than the pressure threshold, ZpushDown), a press is detected. This does not disclose a change in pressure value (i.e. a ΔZ value), nor does it disclose comparing a ΔZ against a ΔZ threshold (i.e. a change in pressure against a change in pressure threshold). Therefore, Gillespie does not disclose “the change in pressure is greater than a change in pressure threshold” as recited in

² See Examiner's Answer, p. 9.

claims 1 and 19. Further, the Examiner apparently does not dispute that Astala does not disclose such a feature. Therefore, claims 1 and 19 are patentable over Gillespie in view of Astala.

Applicant respectfully requests the Board reverse the Examiner's the rejection of claims 1 and 19. Because claims 2-3, 5, 7-13, 16, 17, 21-23, 26, 27, and 29-32 each depend from and further limit either claim 1 or claim 19, claims 2-3, 5, 7-13, 16, 17, 21-23, 26, 27, and 29-32 are each patentable over Gillespie in view of Astala for at least the same reasons. Applicant respectfully requests the Board reverse the Examiner's rejection of claims 2-3, 5, 7-13, 16, 17, 21-23, 26, 27, and 29-32.

Date:

August 24, 2009

Respectfully submitted,



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